

1 **UNITED STATES DISTRICT COURT**
2 **WESTERN DISTRICT OF NEW YORK**

3 **PHILIP LANGHORNE,**

4 **Plaintiff,**

Case No.:

5 **v.**

6 **LEGAL PREVENTION SERVICES, LLC,**

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

7 **Defendant.**

(Unlawful Debt Collection Practices)

8
9 **COMPLAINT**

10 PHILIP LANGHORNE (“Plaintiff”), by and through his attorneys, KIMMEL &
11 SILVERMAN, P.C., alleges the following against LEGAL PREVENTION SERVICES, LLC
12 (“Defendant”):

13
14 **INTRODUCTION**

15 1. This is an action for damages brought by an individual consumer for Defendant's
16 violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”),
17 which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

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19 **JURISDICTION AND VENUE**

20 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), which states that
21 such actions may be brought and heard before “any appropriate United States district court
22 without regard to the amount in controversy,” and 28 U.S.C. § 1331, which grants this court
23 original jurisdiction of all civil actions arising under the laws of the United States.
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1 12. Upon information provided and belief, the alleged debt arose out of transactions
2 that were for personal, family, or household purposes, as Plaintiff does not have any business
3 debt.

4 13. Beginning on or around March 2014, continuing through April 2014,
5 Defendant's collectors placed repeated harassing telephone calls to Plaintiff's work telephone
6 number in order to collect the alleged debt.

7 14. Defendant's collectors' harassing calls originated from numbers including, but
8 not limited to (866) 549-3728. The undersigned has confirmed that these numbers belong to
9 Defendant.

10 15. Defendant's collectors regularly placed numerous calls to Plaintiff's place of
11 employment.

12 16. At all relevant times, Plaintiff advised Defendant that he was not permitted to
13 receive its collection calls at his place of employment. Accordingly, Plaintiff demanded that
14 Defendant stop calling his workplace.

15 17. Despite Plaintiff's request not to be contacted at work, Defendant's calls
16 persisted.

17 18. Once Defendant was aware that its calls to Plaintiff's place of employment are
18 not permitted by Plaintiff's employer there was no legitimate reason for additional calls, other
19 than for the purposes of harassment and abuse.

20 19. Further, on at least one occasion, Defendant's collector, who identified himself
21 as Derek, spoke with the receptionist at Plaintiff's workplace and made several deceptive and
22 threatening statements.
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1 20. Specifically, Defendant's collector told the receptionist that he was with the
2 Henrico County Department, that some legal documents needed to be signed by Plaintiff, and
3 that he needed the documents before going to the courthouse.

4 21. The receptionist advised that Plaintiff was not available to speak with
5 Defendant's collector. In response, Defendant's collector demanded to speak with Plaintiff's
6 supervisor or someone in the human resources department.

7 22. Upon information and belief, Defendant's collector was not with the Henrico
8 County Department and he did not have legal documents requiring Plaintiff's signature.
9 Instead, Defendant's collector made such misrepresentations for the purpose of deceiving
10 Plaintiff into believing that he was being sued by Defendant.

11 23. Further, upon information and belief, Defendant's collector made the false
12 representations to the receptionist at Plaintiff's workplace in order to cause harm to Plaintiff's
13 reputation.
14

15 24. Defendant's collectors also represented to Plaintiff that he was obligated to pay
16 all potential court fees incurred by Defendant if it sued him. Based on this false representation,
17 Defendant told Plaintiff that he should pay the debt at a reduced settlement amount to avoid
18 paying Defendant's court fees at later time.

19 25. Confused and scared, Plaintiff agreed to pay the alleged debt at a reduced
20 settlement amount.

21 26. Accordingly, Plaintiff made four payments of \$500.00, \$424.40, \$424.40, and
22 \$212.20 for a total of \$1,561.00, which Defendant had indicated would satisfy the alleged debt.
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1 27. However, despite Plaintiff's payment of the reduced settlement amount,
2 Defendant's collectors continued placing collection calls to Plaintiff's place of employment
3 seeking to collect additional payments.

4 28. Defendant's actions as described herein were taken with the intent to abuse,
5 harass, and deceive Plaintiff.

6
7 **COUNT I**
8 **DEFENDANT VIOLATED § 1692c(a)(1) OF THE FDCPA**

9 29. A debt collector violates § 1692c(a)(1) by communicating with a consumer in
10 connection with the collection of any debt at the consumer's place of employment if the debt
11 collector knows or has reason to know that the consumer's employer prohibits the consumer
12 from receiving such communication.

13 30. Defendant violated § 1692c(a)(1) when it repeatedly called Plaintiff's place of
14 employment despite having knowledge that its calls were not permitted.

15
16 **COUNT II**
17 **DEFENDANT VIOLATED § 1692c(b) OF THE FDCPA**

18 31. A debt collector violates § 1692c(b) by communicating, in connection with the
19 collection of any debt, with any person other than the consumer, his attorney, a consumer
20 reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the
21 attorney of the debt collector without the prior consent of the consumer given directly to the
22 debt collector, or the express permission of a court of competent jurisdiction, or as reasonably
23 necessary to effectuate a postjudgment judicial remedy.

1 32. Defendant violated § 1692c(b) when it communicated with the receptionist at
2 Plaintiff's place of employment in connection with the collection of the debt alleged to be owed
3 by Plaintiff.
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5 **COUNT III**
6 **DEFENDANT VIOLATED § 1692d OF THE FDCPA**

7 33. A debt collector violates § 1692d by engaging in any conduct the natural
8 consequence of which is to harass, oppress, or abuse any person in connection with the
9 collection of a debt.

10 34. Defendant violated § 1692d when it placed repeated harassing telephone calls to
11 Plaintiff's work telephone; when it continued to call Plaintiff at his place of employment after
12 being advised that such calls were not permitted by Plaintiff's employer; when it misrepresented
13 the nature and purpose of its calls; when it implied that Plaintiff was being sued; when it misled
14 Plaintiff into the belief that he would have to pay its court fees if he did not pay the reduced
15 settlement amount; when it continued to attempt to collect the alleged debt from Plaintiff after
16 Plaintiff paid the reduced settlement amount that Defendant had offered.
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18 **COUNT IV**
19 **DEFENDANT VIOLATED § 1692d(5) OF THE FDCPA**

20 35. A debt collector violates § 1692d(5) by causing a telephone to ring or engaging
21 any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or
22 harass any person at the called number.

23 36. Defendant violated § 1692d(5) when it placed repeated harassing telephone calls
24 to Plaintiff's work telephone with intent to annoy, abuse, or harass.
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COUNT V
DEFENDANT VIOLATED §§ 1692e AND 1692e(10) OF FDCPA

37. A debt collector violates § 1692e by using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

38. A debt collector violates § 1692e(10) by use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

39. Defendant violated §§ 1692e and 1692e(10) when it misrepresented the nature and purpose of its collection calls; when it implied that Plaintiff was being sued although no legal action was being filed against Plaintiff by Defendant; and, when it misled Plaintiff into the belief that he would have to pay its court fees if he did not pay the reduced settlement amount.

COUNT VI
DEFENDANT VIOLATED § 1692e(13) OF FDCPA

40. A debt collector violates § 1692e(13) by falsely representing or implying that documents are legal process.

41. Defendant violated § 1692e(13) when it falsely represented and implied that it had legal documents that Plaintiff had to sign before it went to the courthouse.

COUNT VII
DEFENDANT VIOLATED § 1692f OF THE FDCPA

42. A debt collector violates § 1692f by using unfair or unconscionable means to collect or attempt to collect any debt.

1 43. Defendant violated § 1692f when it harassed Plaintiff at his workplace; when it
2 intentionally sought to damage Plaintiff's reputation at his place of employment; and, generally,
3 when it used unfair and unconscionable means to collect the alleged debt.

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5 **COUNT VIII**
6 **DEFENDANT VIOLATED § 1692f(1) OF THE FDCPA**

7 44. A debt collector violates § 1692f(1) by attempting to collect any amount
8 (including any interest, fee, charge, or expense incidental to the principal obligation) unless
9 such amount is expressly authorized by the agreement creating the debt or permitted by law.

10 45. Defendant violated § 1692f(1) when it attempting to collect debt after Plaintiff
11 paid the reduced settlement amount, which satisfied the debt.

12
13 WHEREFORE, Plaintiff, PHILIP LANGHORNE, respectfully prays for judgment as
14 follows:

- 15 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
16 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to
17 15 U.S.C. § 1692k(a)(2)(A);
18 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
19 costs, pursuant to 15 U.S.C. § 1693k(a)(3);
20 d. Any other relief deemed fair and proper by this Honorable Court.

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22 **DEMAND FOR JURY TRIAL**

23 PLEASE TAKE NOTICE that Plaintiff, PHILIP LANGHORNE, demands a jury trial
24 in this case.
25

Respectfully submitted,

Dated: February 6, 2015

By: /s/ Craig Thor Kimmel
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